

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RANDY PEREZ,

Plaintiff,

v.

CERVANTES,

Defendant.

Case No. 1:22-cv-00390-BAM (PC)

ORDER DIRECTING CLERK OF COURT TO RANDOMLY ASSIGN DISTRICT JUDGE TO ACTION

FINDINGS AND RECOMMENDATION THAT PLAINTIFF'S MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* BE DENIED

(ECF No. 2)

**FOURTEEN (14) DAY DEADLINE**

Plaintiff Randy Perez ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983.

Plaintiff initiated this action on April 4, 2022, together with a motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 and a certified copy of his prison trust account statement. (ECF Nos. 1, 2.)

Examination of these documents reveals that Plaintiff is able to afford the costs of this action. Specifically, during the prior six months, Plaintiff's average monthly balance was \$2,000.00 and the average monthly deposits to the account were \$200.00. (ECF No. 2, p. 2.) In addition, Plaintiff's current available balance in his inmate trust account, as of March 21, 2022, is \$2,624.27. (*Id.* at 3.)

Accordingly, the Court HEREBY ORDERS the Clerk of the Court to randomly assign a District Judge to this action.

Further, it is HEREBY RECOMMENDED that:

1. The motion to proceed *in forma pauperis*, (ECF No. 2), be DENIED; and
  2. Plaintiff be ORDERED to pay the \$402.00 initial filing fee in full to proceed with this action.

These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen (14) days** after being served with these Findings and Recommendations, Plaintiff may file written objections with the court. The document should be captioned “Objections to Magistrate Judge’s Findings and Recommendation.” Plaintiff is advised that the failure to file objections within the specified time may result in the waiver of the “right to challenge the magistrate’s factual findings” on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

Dated: April 4, 2022

/s/ *Barbara A. McAuliffe*  
UNITED STATES MAGISTRATE JUDGE